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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

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RAJYA SABHA

The following Private Members' Bills were introduced in the Rajya Sabha on the 17th August, 1995:—

BILL NO. XXVIII OF 1995

A Bill to amend the Prevention of Insults to National Honour Act, 1971.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:-

1 This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 1995. Short title.

2. In section 3 of the Prevention of Insults to National Honour Act, 1971, for the words "the Indian National Anthem--Jana Gana Mana and the National Song-Vande Mataram" shall be substituted, Amendment of section 3 of Act 69 of 1971.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Insults to National Honour Act, 1971 provides for punishment to any person who intentionally prevents the singing of the Indian National Anthem or causes disturbance to any assembly engaged in such singing.

The framers of the Constitution recognised "Vande Mataram" as the National Song of India and gave it a status equal to the National Anthem "Jana Gana Mana". In this connection a statement made by Dr. Rajendra Prasad, President of the Constituent Assembly of India in the Assembly on the 24th January, 1950 is reproduced below:—

> 'The composition consisting of the words and music known as Jana Gana Mana is the National Anthem of India, subject to such alterations in the words as the Government may authorise as occasion arises; and the song Vande Mataram, which has played a historic part in the struggle for Indian freedom, shall be honoured equally with Jana Gana Mana and shall have equal status with it. I hope this will satisfy the Members".

In Parliament the National Anthem is played at the commencement and the National Song is played on the concluding day of each session of the Parliament. Several State Legislatures also do so.

It will be appropriate therefore that intentionally preventing the singing of the National Song Vande Mataram or causing disturbance to any assembly engaged in such singing is also made a punishable offence under the Prevention of Insults to National Honour Act, 1971.

The Bill seeks to achieve the above objective.

KRISHAN LAL SHARMA

II

BILL NO. XXVII OF 1995

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1995. Short title.

2. In clause (a) of article 51A of the Constitution, for the words "and the National Anthem", the words "the National Anthem and the National Song" shall be substituted. Amendment of article 51A.

STATEMENT OF OBJECTS AND REASONS

Article 51A of the Constitution of India relating to the Fundamental Duties of Citizens *inter-alia* provides that it shall be the duty of every citizen of India to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.

The framers of the Constitution recognized "Vande Mataram" as the National Song of India and gave it a status equal to the National Anthem "Jana Gana Mana". In this connection, a statement made by Dr. Rajendra Prasad, President of the Constituent Assembly of India in the Assembly on the 24th January, 1950 is reproduced below:

> "The composition consisting of the words and music known as Jana Gana Mana is the National Anthem of India, subject to such alterations in the words as the Government may authorise as occasion arises; and the song Vande Mataram, which has played a historic part in the struggle for Indian freedom, shall be honoured equally with Jana Gana Mana and shall have equal status with it. I hope this will satisfy the Members".

In Parliament, the National Anthem is played at the commencement and the National Song is played on the concluding day of each session of the Parliament. Several State Legislatures also do so.

It is therefore appropriate that respect for the National Song may also be included in the Constitution as one of the Fundamental Duties of every citizen.

The Bill seeks to achieve the above objective.

KRISHAN LAL SHARMA

III

BILL No. XLV OF 1995

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1995.

Insertion of new article 178A.

2. After article 178 of the Constitution the following article shall be inserted, namely:—

Oath or affirmation by Speaker and Deputy Speaker.

178A. The Speaker and the Deputy Speaker chosen under article 178, before entering upon their respective offices, make and subscribe before the Governor, or any other person appointed in that behalf by him, an oath or affirmation in the following form, that is to say—

"I, A.B. do $\frac{\text{swear in the name of God}}{\text{solemnly affirm}}$ that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully rising above judgement perform the duties of my office without fear or favour, affection or illwill and that I will uphold the Constitution and the Parliamentary conventions."

STATEMENT OF OBJECTS AND REASONS

Recently the largest democracy of the world witnessed in silence and anguish the most partisan and unconstitutional actions of the Speaker of the Legislative Assembly of a biggest State of the Union who flouted all the norms, conventions and statutory provisions and acted in an open partisan manner to protect the Government of the party on whose ticket he was elected as member of the Assembly. Though he was removed from the office of the Speaker most disgracefully by the majority of the members of the Legislative Assembly but his actions have caused irrepairable damage to the sacred office of Speaker who is the custodian of the interests of the Assembly and its members and this office plays a vital role in the growth of a healthy democracy.

Though as per convention the Speaker of the Assembly is expected to be neutral and above party lines but in the recent past we have seen many Speakers acting on partisan lines. However, the Speaker of the Assembly is not duty bound under oath to act independently though as per convention he is expected to do so. Hence the Constitution should provide an oath or affirmation for the Speaker of the Legislative Assembly as is necessary for other constitutional functionaries.

Hence the Bill.

SURESH PACHOURI

IV

BILL NO. XLVIII OF 1995

A Bill to provide for the free medical and engineering education to deserving students who cannot afford the expensive medical and engineering education, despite being talented, due to their poor economic conditions and for matters connected therewith.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Free Medical And Engineering Education to Deserving Poor Students Act, 1995.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires,—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(*b*) "poor student" means any student whose family income, from all sources, does not exceed two thousand rupees per month;

(*c*) "prescribed" means prescribed by rules made under this Act,

Appropriate Government to provide free medical and engineering education to every deserving poor student.

3. (*1*) The appropriate Government shall provide free medical and engineering education to every deserving poor student who has obtained such marks or passed such examination with such distinctions as may be prescribed from time to time.

(*2*) The appropriate Government shall provide to every poor student admitted to any medical or engineering college including private medical or engineering college or Institute under this Act—

(*a*) the entire cost of admission and tuition fee;

(*b*) materials like books, note-books, stationery etc. free of cost;

(*c*) free hostel facilities wherever necessary;

(*d*) scholarships in such cases as may be prescribed.

Supplementing other laws.

4. The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force, regulating any of the matters dealt with in this Act.

Power to make rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENTS OF OBJECTS AND REASONS

Most of the parents have a dream to make their sons or daughters either doctors or engineers and so is the desire of the majority of the youth pursuing their studies in schools. However due to a very tough competition this dream remains a dream for ever for the majority as they are not selected for the admission to these prestigious courses. However, there are students who are extraordinary brilliant but their dreams are not fulfilled despite their ability to cross all the hurdles because of the poverty. The medical and engineering education is so costly that even middle class families cannot afford to send their wards, what to talk of the poor and the people living below the poverty line. Thus a large chunk of deserving students cannot have the benefit of medical and engineering education.

Since ours is a welfare State, it is our duty to give chance to such poor but deserving students to pursue the studies of their choice and fulfil their ambitions of life. In such cases the appropriate Government should bear all the expenses of students towards their studies in engineering or medical colleges.

Hence this Bill.

SURESH PACHOURI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for free medical and engineering education by the appropriate Government to a deserving poor student enrolled even in a privately owned medical or engineering college. This Clause also provides for certain other facilities including scholarships to poor students. At this juncture it is not practicable to calculate the exact amount that will be spent for the purpose but an estimated recurring expenditure of fifty crores of rupees per annum is likely to be involved from the Consolidated Fund of India if the Bill is enacted and brought into operation.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEG

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. The matter will relates to procedure and administrative details only.

The delegation of legislative power is, therefore, of normal character.

BILL NO. XLVII OF 1995

A Bill to provide for the prohibition of fraudulent conversion of religion by Indian citizens in order to practise bigamy or for escaping from the purview of law of the land prescribed for the followers of any particular religion and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth year of the Republic of India as follows :—

Short title, extent and Application.

1. (*1*) This Act may be called the Prohibition of Fraudulent Conversion of Religion Act, 1995.

(*2*) It extends to the whole of India.

(*3*) It applies to all the citizens of India including those living outside India.

Definition.

2. In this Act, unless the context otherwise requires,—

(*a*) "fraudulent conversion of religion" means changing ones religion or belief, in order to practise bigamy or to escape the provisions of any law for the time being in force as a matter of convenience;

(*b*) "prescribed" means prescribed by rules made under this Act;

45 of 1860. 2 of 1974.

(*c*) terms not defined in this Act but defined in the Indian Penal Code, 1860 and Code of Criminal Procedure, 1973 shall have the meanings assigned to them in those

Prohibition of fradulent conversion of religion by citizens.

3. Notwithstanding any custom, personal law, judgement of any court of law or anything contained in any other law for the time being in force, the fraudulent conversion of religion by citizens is hereby prohibited.

Second marriage after fradulent conversion of religion to be void.

4. (*1*) Notwithstanding any custom, personal law, judgement of any court of law or anything contained in any other law for the time being in force, second marriage of any person after fraudulent conversion to other religion, without lawfully divorcing his first wife shall be void.

(*2*) Notwithstanding sub-section (*1*), the first wife of such person shall continue to have the benefits of the provisions of maintenance laws for the time being in force.

(*3*) The procedure to be followed by the court in implementing the provisions of sub-section (*1*) shall be such, as may be prescribed.

Penalty.

5. Whoever contravenes the provisions of section 3 without any reasonable excuse, the onus of which shall be on that person, shall be punishable with imprisonment for a term of not less than three years but not more than five years and also with fine which may extend to one lakh rupees.

Offence to be cognizable and non-bailable.

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable and non-bailable. 2 of 1974.

Over-riding effect of Act.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any other instrument having effect by virtue of any law other than this act, but save as aforesaid, the provisions of this Act shall be in addition to and not is derogation of any other law for the time being applicable to such matters.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Recently the Supreme Court of India, in a landmark judgment, came heavily on the practice of conversion of religion for the convenience of practising bigamy and denying the benefits of law to the first wife by citizens. The apex court directed the State to formulate a common civil code for the country. The apex court has rightly set aside the fraudulent practice of conversion to other religions either for practising bigamy or to escape the provisions of law contravened by such fraudulent persons and its direction to formulate a common civil code is a matter of national debate despite the fact that under Article 44 of the Constitution there is a directive principle to formulate a common Civil Code. However, since there is no law at present to deal with such cases which must be dealt with seriously and deterrent punishment has to be provided for such citizens so that such fraudulent conversions of convenience are stopped.

Hence this Bill.

SURESH PACHOURI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL No. XLI OF 1995

A Bill to provide for compulsory publication of retail sale price alongwith the advertisement of the consumer goods and for matters connected therewith.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Consumer Goods (Publication of Price with Advertisement) Act, 1995.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "advertised product" includes all products and services which for sale are published or printed in newspaper, magazines or in any other form, broadcast or telecast through radio or television or through any other media or through verbal announcement made in the public in this regard;

(*b*) "Consumer goods" include all raw materials, agricultural commodities, finished goods of any kind or any other article and services intended for sale;

(*c*) "price" means the actual retail sale price of the product.

Publication of the retail sale prices of the consumer goods in advertisement.

3. Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory for an advertiser of any product or consumer goods to publish simultaneously the price of the product which is intended to be sold in the domestic market and the agency whether owned by Government or any individual or group of individuals advertising such products shall ensure that no such product is advertised without simultaneously publishing such price.

Penalties.

4. (*1*) Whoever contravenes the provisions of section 3 of this Act shall be punished with imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both.

(2) If the offence under sub-section (1) is committed by an agency or a company the head of such agency or company by whatever name called, shall be liable to be proceeded against and punished accordingly.

STATEMENT OF OBJECTS AND REASONS

Consumer movement at present is picking up its tempo in our country. Though slowly, it has forced the Government to bring forward legislations to protect the consumers and accordingly Parliament enacted the Consumer Protection Act, 1986. Simultaneously a number of other enactments dealing with consumer interest were amended to protect the rights and interests of the consumers. But still there are some shortcomings in the Consumer Protection Laws. One such shortcomings in the non-publication of retail sale price of various consumer goods along with their advertisements. It is a well known trade practice that publicity of a product is a must for capturing the market and to boost its sale. This publicity is done through advertisements in Radio, T.V. newspapers, magazines, cinema slides, hoardings, posters, announcements in the public through loudspeakers etc. Today radio, TV, newspapers and magazines, etc. are the most popular means of advertisement. The consumers are in fact lured by the advertisements to purchase the particular product but when the consmer goes to the market he finds different rates of the same product in different shops or agencies. The consumer is fleeced to the extent possible and he cannot resist his being fleeced because he does not know the actual sale price of the product. This can be stopped if simultaneous publication of actual sale price of the product alongwith its advertisement is made mandatory by enacting a law in this regard and providing for stiff penalties for violation thereof. This mandatory publication of sale price will protect the consumer from being fleeced by unscrupulous traders but it will also give him opportunity to think twice before deciding to purchase a product according to the money in his pocket. It will save him from the mad rush of shopping without caring for his budget. It will go a long way in the movement of consumer protection.

Hence this Bill.

S. S. AHLUWALIA

VII

BILL NO. XL OF 1995

A Bill to provide for the protection of old persons and their welfare by the State by opening old persons homes, providing shelter to the neglected and infirm old persons, giving financial assistance to the needy old persons and for their rehabilitation and matters connected therewith.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Old Persons (Protection and Welfare) Act, 1995.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appropriate Government" means,—

(*i*) in the case of a State, the State Government; and

(*ii*) in the case of a Union Territory, the Central Government;

(*b*) "infirm old person" means an old person who has become infirm due to his age, ailment and who has no independent and adequate means of livelihood;

(*c*) "old person" means any person who is sixty or more years of age;

(*d*) "prescribed" means prescribed by rules made under this Act.

Financial assistance to old persons.

3. (*1*) Every old person shall, on an application made in the prescribed form, be given rupees five hundred per mensem as financial assistance for his subsistence by the appropriate Government in whose jurisdiction that person permanently resides.

(*2*) The financial assistance payable to an old person under this section shall be subject to alteration on the basis of the prevailing price index as may be determined by the Central Government.

(*3*) The financial assistance referred to in sub-section (1) shall be disbursed to an old person by the appropriate Government through Government treasury or any branch of a public sector bank or post office according to the preference given by the concerned old persons in his application.

Establishment of old persons' Homes.

4. (*1*) The Central Government shall establish at least one Old Persons' Home in each district of the country at conspicuous places after consulting the concerned State Governments.

(*2*) The Central Government shall provide all necessary facilities in the Old Persons' Homes for the benefit of their inhabilitants.

(*3*) All the infirm and other old persons neglected by their kith and kin shall be kept in Old Persons' Homes by the appropriate Government.

(*4*) The persons kept in Old Persons' Homes shall not be entitled to financial assistance referred to in Section 3 of this Act.

Other facilities to Old Persons.

5. The appropriate Government shall provide to old persons,—

(*a*) free medical aid in Government hospitals and other nearest depensaries of the Government or other dispensaries or clinics recognised by the appropriate Government;

(*b*) means of entertainment and such other facilities which may help in removing their distress at being infirm or neglected by their kith and kin.

Area Police to keep records of Old persons and provide security.

6. (*1*) Notwithstanding anything contained in any law for the time being in force, the local Police of every district headquarter shall keep a record of old persons in its jurisdiction in order to provide maximum security to such persons.

(*2*) It shall be the duty of the area Station House Officer of the local police to arrange to provide maximum security to every lonely old person or lonely old couple residing in his jurisdiction.

Central Government to provide adequate funds to State Governments.

7. The Central Government shall provide adequate funds to the State Governments for carrying out the purposes of this Act.

Power to make rules.

8. The Central Government may, by notifications in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our society it is customary for every one particularly a male member to look after his old parents and support them. However due to the near disappearance of the joint family system and economic considerations old persons are being increasingly ignored or neglected by their kith and kin and are left to fend for themselves in the society. As a result we find millions of old persons who are unable to take care of themselves or who do not have sufficient means or any support to lead a happy life in old age. Such old persons live in hunger and want and are left uncared for. Though there is a statutory provision contained in Section 125 of the Code of Criminal Procedure 1973, which provides for maintenance allowance for the aged parents from their legal heirs. Generally old persons do not take recourse of this provision either due to their ignorance of the provision or on consideration of self-respect in not asking for support from their children. In some cases these old persons do not want to disturb the life of their kith and kin. In a Welfare State like ours, it is the duty of the State to look after its old citizens so that they can feel comfortable in their declining days.

The recent spate of murders of old persons in the Capital is another pointer towards the growing insecurity of old persons in the Society. Old persons are increasingly becoming easy targets of criminals as is evident from the fact that in the Capital only old persons who were either living alone or lonely old couple were clubbed to death by criminals. Such old people cannot resist the criminals due to their old age and are killed easily even by petty implements such as a cricket bat, iron rod or a log. Thus they become preferential targets of criminals. Hence it has become necessary that utmost security is provided by the State to the old persons living alone or lonely old couples. The State must also open old persons homes in every district with all the facilities where infirm and lonely old perons should be lodged and looked after properly which may alleviate their suffering on account of their being neglected by their kith and kin.

This Bill seeks to achieve the above objects.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the financial assistance to old persons. Clause 4 provides for opening of Old Persons' Homes in every district of the country. Clause 7 provides that the Central Government shall provide adequate funds to State Governments. This Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. However, at this stage it cannot be estimated as to how many old persons will need financial assistance and how many of them will be lodged in Old Persons' Homes. But it is estimated that an annual recurring expenditure of about rupees two hundred crores is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure to the tune of rupees twenty lakhs will also be involved at the initial stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of details only, the delegation of legislative powers is of a normal character.

VIII

BILL NO. XLII OF 1995

A Bill to provide for the establishment of a Working Journalists Welfare Fund at the national level for promoting welfare of the Journalists employed in various newspaper establishments and for matters connected therewith.

BE it enacted by Parliament in the Forty-sixth year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Working Journalists Welfare Fund Act, 1995.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act unless the context otherwise requires,—

(*a*) "accident" with its grammatical variations and cognate expressions means an unexpected event causing injury, damage to any part of the body or death and includes any fatal disease which is contracted by a working journalist within or outside the working hours;

(*b*) "competent authority" means any authority authorised by the Government, by notification in the Official Gazette, to perform all or any of the functions of the competent authority as may be specified therein under this Act;

(c) "fund" means the Working Journalists Welfare Fund established under section 3;

(*d*) "Government" means the Central Government;

(*e*) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not for the production or publication of one or more newspapers news magazines or for conducting any news agency or news syndicate within the country;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "working journalists" means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any newspaper establishment and includes an editor, a lead writer, news editor, sub-editor, feature writer, copy taster, reporter, correspondent, cartoonist, news-photographer and proof reader working in such establishment.

Establishment of Working Journalists Welfare Fund.

3. With effect from such date as the Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Working Journalists Welfare Fund, moneys into which shall be—

(*a*) given by the Government after due appropriation made by Parliament from time to time;

(*b*) contributed by a newspaper establishment in such manner as may be prescribed; and

(*c*) received as voluntary donations from any individual or organisations.

and the said fund shall be managed by a Board of Trustees appointed under section 4.

Board of Trustees.

4. The Board of Trustees shall have one Chairman, who shall be nominated by the Government and as many other members as are in the opinion of the Government required to manage the fund and all such members shall be elected from representatives of organisations representing the working journalists and other newspaper employees in the country.

Application of Fund.

5. The fund shall be spent by the Board of Trustees to meet the expenditure in connection with measures which in the opinion of the Board of Trustees are necessary or expedient to promote the welfare of the working journalists in the country and in particular for—

(*i*) providing and improving housing and recreational facilities;

(*ii*) rendering adequate, financial assistance in case of infirmity and disability due to accident or old age;

(*iii*) rendering adequate financial assistance to the Kith and Kin of a working journalist who dies prematurely due to an accident or otherwise;

(*iv*) providing school and college education to the dependent children of a working journalist who dies prematurely or becomes infirm or disable and for the improvement of their standard of living and nutrition;

(*v*) providing and improving such other welfare measures as may be prescribed from time to time.

Regional Committees.

6. The provisions of Section 5 shall be carried out under the guidance and supervision of the Board of Trustees who shall constitute regional committees in different parts of the country for the effective implementation of the said provisions.

Savings.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In a democracy like ours, Press plays a very significant role in its proper functioning. It highlights the shortcomings in the governance of the country which compels the Government to rectify the errors and function properly for the welfare of the people. But journalists play vital role in giving the necessary news and maintaining the press function properly. The journalists collect news undeterred by season, hostile atmosphere and violence. They do not bother for scorching heat, chilly winters and intermittent rains: Be it a bandh, demonstration, communal riot, curfew or even war the journalist gathers the news for his newspaper establishment even if there is a risk to his own life. A photographer of a newspaper establishment covers every important aspect of a news risking his own life. Sometimes the risk becomes a reality and mishaps take place which render the near and dear ones of such journalists totally helpless. The newspaper establishments do provide some relief but that remains inadequate. The entire life style of dependents of such a journalist changes overnight. Some incidents such as the death of a correspondent while covering the demonstrations or the death of correspondents in tragic road accident have highlighted the dangers involved in this profession and the helplessness of their near and dear ones. In some cases money is collected by the colleagues of the deceased to help the dependents but not in every case. In such prevailing circumstances it is felt that a welfare fund for the working journalists should be established in the country in which money be given by the Central Government and newspaper establishments from time to time and welfare measures should be undertaken therefrom for the working journalists and for their near and dear ones so that the journalists could discharge their duties fearlessly.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Working Journalists Welfare Fund. Clause 4 provides for a Board of Trustees. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crores is likely to be incurred as recurring expenditure every year.

A non-recurring expenditure of rupees twenty crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. They will relate to matters of details only. The delegation of legislative power is of normal character.

IX

BILL No. LI OF 1995

A Bill to provide for the auditing of accounts of Banking Companies by an independent authority and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Banking Companies (Audit) Act, 1995.

(*2*) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Auditor-General of Banking Companies" means the Auditor-General of Banking Companies appointed under section 3;

(b) "Banking Company" means a company within the meaning of section 5 of the Banking Regulation Act, 1949 but does not include a Foreign Company within the meaning of section 591 of the Companies Act, 1956,

10 of 1949.

1 of 1966.

(c) "prescribed" means prescribed by the rules made under this Act;

(d) words and expressions used but not defined in this Act, and defined in the Banking Regulation Act, 1949 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, shall have the meaning respectively assigned to them in these Acts. 5 of 1970.

Auditor-General of Banking Companies.

3. (1) There shall be an Auditor-General of the Banking Companies who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as the Comptroller and Auditor-General of India under the provisions of the Constitution.

(2) Every person appointed as the Auditor-General of Banking Companies shall before entering upon his office, make and subscribe, before the President, or some persons appointed in that behalf by the President, an oath or affirmation according to the form as may be prescribed.

(3) The salary and other conditions of service of the Auditor-General of Banking Companies shall be such as may be prescribed:

Provided that neither the salary of the Auditor-General of Banking Companies nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(4) The Auditor-General of Banking Companies shall not be eligible for further office either under the Government of India or under the Government of any State or in any Banking Company after he has ceased to hold his office.

Duties and power of the Auditor-General of Banking Companies.

4. The Auditor-General of Banking Companies shall perform such duties and exercise such powers in relation to the accounts and audit thereof, of all the Banking Companies as may be prescribed.

Provided that the accounts of all the Banking Companies shall be kept in such form as the Auditor-General of Banking Companies may prescribed.

The Banking Companies to furnish accounts, to Auditor-General of Banking Companies for audit.

5. Every Banking Company shall furnish to the Auditor-General of Banking Companies all the accounts maintained by it, who shall cause them to be audited not later than six months after the last date of a financial year to which the accounts relate.

Audit Report.

6. The Reports of the Auditor-General of Banking Companies relating to the accounts of the Banking Companies shall be submitted to the President who shall cause them to be laid before each House of Parliament.

Act to have over riding effect.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to make rules.

8. (*1*) The Central Government may, with the approval of the President, and by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provides for---

(*a*) the appointment of the staff of the Auditor-General of Banking Companies;

(*b*) the salary, allowances and pension payable to and other conditions of service of the Auditor-General of Banking Companies;

(*c*) the form in which the audit of accounts of the Banking Companies may be made;

(*d*) any other matter which is to be or may be prescribed or in respect of which this Act makes no provisions or makes insufficient provisions and provision is in the opinion of the President necessary for the proper implementation of this Act.

STATEMENT OF OBJECTS AND REASONS

Huge amounts of monies are deposited in the Banks and they hold the funds and invest them. There is hardly any arrangement for the total audit of the accounts of the banks every year. The partial and incomplete audit as is done now is no protection against manipulation and falsification of accounts and cases of fraud and misappropriation are on the rise and the Banking system is in perial. This bill seeks to set up an independent audit authority to carry out total audit of all the banks of the country every year.

GURUDAS DAS GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of an Auditor-General of Banking Companies. It will also be necessary to provide requisite staff for the office of the Auditor-General of Banking Companies. Expenditure incurred on this account will be met from the Consolidated Fund of India.

It is estimated that the expenditure involved will be of the order of rupees one crore per annum of recurring nature and rupees fifteen lakhs of non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules to carryout the purposes of the Bill when enacted. The matters in respect of which rules may be made are matters of procedure or detail. The delegation of legislative power is, therefore, of a normal character.

X

BILL NO. L OF 1995

A Bill to provide for the declaration of assets and liabilities by Ministers, Members of Parliament and Members of State Legislatures and office Bearers of the recognised political parties and their family members and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Declaration of Assets and Liabilities by Ministers and Members of Legislatures and Office Bearers of Political Parties Act, 1995.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requiries,—

(*a*) "assets", in relation to any person, means—

(*i*) his right, title or interest in both movable and immovable properties, whether as owner, mortgager, lessor, lessee or otherwise;

(*ii*) his right, title or the interest in any business, trade or industrial or commercial venture, whether conducted with profit motive or not;

(*iii*) any sum of money, in excess of five thousand rupees kept in cash or in any other form;

(*iv*) any amount as bank balances including fixed deposits;

(*v*) any amount in shares, stocks, debentures and other securities;

(*vi*) motor vehicles, as defined in Motor Vehicles Act, 1989;

(*vii*) insurance policies;

(*viii*) jewellery excluding rings, ear rings, bangles, buttons, cuff-links, watches, straps and such other articles which the person normally wears;

(*b*) "family-member" in relation to a Minister or a member means his or her—

(*i*) spouse (not being a judicially separated spouse);

(*ii*) minor children; and

(*iii*) any other person related to him or her, whether by blood or marriage and whether wholly dependent on him or her or not;

(*c*) "member" means a member of either House of Parliament or the Legislature of a State;

(*d*) "Minister" means a member of the Council of Ministers of the Union or the State;

(*e*) "office bearer" means the President, Vice President, General Secretary, Secretary, Assistant Secretary, Treasurer, Chief Whip and other Whips of a recognised political party;

(*f*) "political party" has the same meaning as is assigned to it in the Representation of the People Act, 1951; 43 of 1951.

(*g*) "prescribed" means prescribed by rules made under this Act.

Ministers to furnish statements of assets and liabilities while entering upon office and thereafter.

3. Notwithstanding anything contained in any other law for the time being in force, every Minister shall before taking the oath of office and secrecy under the Constitution furnish to the President or the Governor, as the case may be, a statement in the prescribed form declaring the particulars of all his assets and liabilities and that of his family members on the date of assumption of office, and thereafter on or before the end of every financial year throughout his term of office as minister.

Statement by Ministers to be sent to Comptroller and Auditor General of India for Scrutiny.

4. Every statement furnished by a Minister under section 3 shall be forwarded to the Comptroller and Auditor General of India by the President or the Governor of the concerned State, as the case may be, for audit thereof.

Amendment of the Representation of the People Act, 1951

Amendment of section 33.

5. In section 33 of the Representation of the People Act, 1951 (hereinafter referred to as the Principal Act) in sub-section (1) after the second proviso the following proviso shall be added at the end, namely:— 43 of 1951.

"Provided also that every candidate shall also submit a statement in the prescribed form declaring the particulars of all his assets and liabilities and that of his family members on the date of his filing the nomination paper to the returning officer and the Returning Officer shall, after the election process is over, forward in respect of a candidate who has been declared elected the statement submitted by him to the Election Commission."

Amendment of section 36.

6. In section 36 of the principal Act, in sub-section (2) the following proviso shall be inserted, namely:—

"Provided that the nomination paper shall be rejected summarily if it is not accompanied by a statement of assets and liabilities prescribed by section 33 of this Act.".

Insertion of new section 67AA.

7. After 67A of the principal Act the following section shall be inserted, namely:—

67AA. After the result is so declared the Election Commission shall forward the statement of assets and liabilities of a winning candidate received by it from the Returning Officer under section 33 to the Comptroller and Auditor General of India for audit under section 10 of this Act.

Members to furnish annual statements of assets and liabilities.

8. (1) Notwithstanding anything contained in any other law for the time being in force every member shall before taking his seat in the House furnish a statement in the prescribed form declaring his and of his family members' assets and liabilities to the Election Commission on or before the end of every financial year throughout the term of his office as member.

(2) The Election Commission shall, as soon as may be forward the statements furnished under sub-section (1) to the Comptroller and Auditor General of India, for audit under section 10 of this Act.

Office bearers of political parties to furnish yearly statements of assets and liabilities.

9. (*1*) Notwithstanding anything contained in any other law for the time being in force every office bearer of a political party recognised in accordance with the provisions of para 13 of the Election Symbols (Reservation and Allotment) Order, 1968 shall furnish a statement in the prescribed form declaring his and of his family members' assets and liabilities to the Election Commission throughout the term of his office, on or before the end of every financial year.

(2) The Election Commission, shall, as soon as may be, forward the statements furnished under sub-section (*1*) to the Comptroller and Auditor General of India for audit.

Comptroller and Auditor General to scrutinise the statements and submit report to the President and Governor.

10. The Comptroller and Auditor General of India shall audit the statements submitted to him under this Act and submit a report thereon from time to time to the president and the Governor, as the case may be, who shall cause it to be laid before each House of Parliament and the Legislature of the concerned State.

Power to make rules.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In a healthy democracy clear and honest public life is a must. The representatives of the people should always be above suspicion. At the level of Ministers including the Prime Minister and Members of Parliament, Members of State Legislatures and office bearers of political parties corruption must be first stamped out. It must appear that the Ministers and the Members are functioning honestly and that they have not misused their official positions. It is, therefore, proposed to make it mandatory for every Minister and Member of Parliament, Members of State Legislatures and office bearers of political parties to furnish a statement of his assets and liabilities and that of his family members from time to time to the President and the Election Commission who shall send the same to the Comptroller and Auditor General of India for scrutiny who will submit a report thereon to the President and the Governor who shall cause them to be published in the Official Gazette and laid on the Table of both the Houses of Parliament and before State Legislature.

Hence this Bill.

GURUDAS DAS GUPTA

FINANCIAL MEMORANDUM

The Bill seeks to make it mandatory for every Minister, member of Parliament, members of State legislatures and Office bearers of recognised political parties to file a statement of his assets and liabilities. The statements will have to be audited by the Comptroller and Auditor General of India. It might also be necessary to make provision for some additional staff for the purpose.

It is estimated that the recurring expenditure will not exceed rupees one lakh per annum and the non-recurring expenditure will not exceed rupees fifty thousand.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill provides for the making of rules for giving effect to the provisions of the Act. The matters on which rules will be made are matters of details

The delegation of legislative power is, therefore, of a normal character.

XI

BILL NO. LII OF 1995

A Bill to regulate the functioning of Private schools including conditions of services of the teachers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Private Schools (Regulation) Act, 1995.

(*2*) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act unless the context otherwise requires.—

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(*b*) "Education Authority" means an Authority constituted by the appropriate Government under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act;

(*d*) "private school" means an unaided school, whether recognised or not, which is not run by the appropriate Government, or its local authority

or any other authority designated or sponsored by appropriate Government and include a pre-primary, primary, middle, higher secondary and senior secondary school and also any other institution which imparts education or training below the degree level but does not include an institution which imparts technical education.

Constitution of the Education Authority.

3. (1) With effect from the appointed day, the appropriate Government in its territorial jurisdiction shall, by notification in the Official Gazette, constitute an authority to be known as the Education Authority to regulate the functioning of the private schools and conditions of service of teachers in them.

(2) The authority shall consists of,—

(a) a Chairman to be appointed by the appropriate Government;

(b) not less than eight members and not more than 14 members to be appointed by the appropriate Government;

(c) such other officers and staff to assist the authority as may be prescribed.

(3) The Chairman and other members referred to in clause (1) shall be chosen from among the persons who have special knowledge and experience in the field of education.

(4) The terms of office and conditions of service of the Chairman and the members shall be such as may be prescribed.

Functions of the Education Authority.

4. (1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the authority to regulate the functioning of the private schools and conditions of service of teachers under its jurisdiction.

(2) Without prejudice to the generality of the provision in sub-section (1), the Education Authority may,—

(a) prescribe the student teacher ratio for each standard;

(b) put a ceiling on the tuition fee that may be charged by a school for a particular class;

(c) limit the hours of duty for teachers;

(d) monitor the funds collected by the schools;

(e) prescribe the other service conditions of teachers;

(f) perform such other function as may be prescribed.

Condition of service of teachers.

5. (1) The Education Authority may make rules regulating the minimum qualifications for recruitment and the conditions of service of teachers of a private school.

(2) Subject to any rule that may be made in this behalf, no teacher of a private school shall be dismissed, removed or reduced in rank nor shall his services be otherwise terminated except with the prior approval of the Education Authority.

Salaries of the teachers

6. The scales of pay and allowances, medical facilities, pension, gratuity, provident fund and other benefits of teachers of the private school shall not be less than those of the teachers of the corresponding status in schools run by appropriate Government.

Fee and other charges.

7. (*1*) No private school shall levy any fee or collect any other charge or receive any other payment except those specified by the Education Authority.

(*2*) Every school shall obtain prior approval of the Education Authority before levying such fees and collecting such charges.

(*3*) The Education Authority shall monitor that the amount collected by the private school shall be spent only on the development of the school and for no other purposes.

Closing of school.

8. Whenever the appropriate Government is satisfied that the managing committee or manager of any private school, whether recognised or not, has neglected to perform any of the duties imposed on it by or under this Act or any rule made thereunder and that it is expedient in the interest of school education to close down such school, it may, after giving reasonable opportunity of showing cause against the proposed action, close down such school for such period as may be prescribed:

Provided that if the school is a recognised private school, the appropriate Government may also withdraw the recognisation and stop the aid given to such school.

Penalty

9. Without prejudice to any of the action which may be taken under section 8, if the manager of any private school omits or fails, without any reasonable excuse to carry out the provisions of this Act, he shall be punishable with a fine which may extend to five lakhs rupees or imprisonment for a period of not less than six month or with both.

Act to apply to unaided minority schools

10. The provisions of this Act shall also be applicable to unaided minority schools.

Savings.

11. The provision of this Act shall be in addition to and not in derogation of any other law or rules made thereunder.

Power to remove difficulty.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Power to make rules.

13. The Central Government, after consultation with the State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Now a days running an unaided private school has become a very lucrative business. There are a number of unaided private schools through out the country being run by a handful of persons. The main aim of these persons is to earn money rather than imparting good education. These schools are charging hefty tuition fee besides other charges in the name of donations, building funds, computer fee etc. Not only this, these schools after availing the necessary tax concession are not investing the fund for development of the schools. The teacher in these schools are underpaid and have no service benefits of medical facilities, provident fund etc. There are cases of retrenchment/suspension of teachers without imputing any charge. Even Union Government Officials and police officials are found to be associated with school managing Committee causing a gross irregularity. Women teachers are subject to harassment.

Education is, therefore, not considered to be safe in the hands of such unscrupulous persons. Overcharging of fee on one hand and the under payment of teachers on the other hand is the *modus operandi* of these people, who would like to make windfall profit by gambling with the fortunes of millions of youngesters. The tax laws are violated in impunity. Article 30 of the Constitution is misused to protect the interest of so called promoters of education to carry on their thriving business.

Therefore it becomes necessary for the nation to set up adequate mechanism to monitor, if necessary, regulate and control the thriving education business not only to protect the rights of the people but also to ensure that million's of guardians are not exploited and our teenagers get proper training and education.

Hence this Bill.

GURUDAS DAS GUPTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government within its territorial jurisdiction establish an Education Authority to regulate the functions of the unaided private schools. The Bill, therefore, if enacted is likely to involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one crore will be involved as recurring expenditure per annum.

Non-recurring expenditure to the tune of rupees twenty lakhs is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause **13** of the Bill empowers the Central Government to make rules in consultation with the State Government for carrying out the provisions of the Bill. The matters will relates to details only. As such the delegation of legislative power is of normal character.

XII

BILL NO. XLVI OF 1995

A Bill to amend the Indecent Representation of Women (Prohibition)
A Bill to amend the Indecent Representation of Women (Prohibition)

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Indecent Representation of Women (Prohibition) Amendment Act, 1995.

Amendment of Section 2.

2. In section 2 of the Indecent Representation of Women (Prohibition) Act, 1986 (hereinafter referred to as the principal Act) after clause (*f*) the following clause shall be inserted, namely:—

"(g) "publish" means to prepare, to print or to distribute to any one for publishing in any book, newspaper, magazine or periodical."

Insertion of new sections 3A, 3B and 3C.

3. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Prohibition of publishing books,

3A. No person shall publish or cause to be published any book, magazine, periodical or poster containing nude, semi nude and vulgar photographs or woman of any age or postures of any woman which are indecent

magazines, periodicals and posters containing nude, semi nude and indecent postures of woman alone or in company.

and vulgar and postures of a woman in the company of a man in indecent manner which may corrupt or injure public morality or morals.

Women not to give nude semi nude photographs.

3B. No woman shall give nude or semi-nude photograph or pose to be photographed nude or semi nude for the use of any book, magazine, periodical or poster which may denigrate women.

Prohibition of taking nude and semi nude photographs of women.

3C. No person shall take nude and semi nude photographs of any woman of any age for use of any book, magazine, periodical or poster.

Amendment of section 6.

4. Section 6 of the pricipal Act shall be renumbered as sub-section (*1*) and after sub-section (*1*) as so renumbered, the following sub-sections shall be inserted, namely:—

(*2*) Whoever contravenes the provisions of section 3A shall be punishable with imprisonment which may extend to ten years and also with fine which may extend to two lakh rupees.

(*3*) Whoever contravenes the provisions of section 3B shall be punishable with imprisonment which may extend to two years.

(*4*) Whoever contravenes the provisions of section 3C shall be punishable with imprisonment which may extend to five years and also with fine which may extend to twenty five thousand rupees.

Amendment of section 8.

5. In section 8 of the principal Act, in sub-section (*1*), for the word "bailable" the words "non-bailable" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

These days, the markets are flooded with books, magazines, periodicals, posters and other pornographic literature which depict women in most vulgar way. These books contain nude, semi-nude photographs of women exposing the private parts of their bodies which is bringing shame to womanhood of our country. These magazines are just pronographic literatures which are spoiling the minds of our youth and resulting in heinous crimes like rapes and other assaults on the women and girls in the country. The indecent Representation of Women (Prohibition) Act, does not contain such aspects and thus is incomplete. The Act has to be updated to make it more stringent.

Hence this Bill.

SAROJ KHAPARDE

V. S. RAMA DEVI,
Secretary-General.

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